

### **REMARKS**

Claims 1-8, 12, 17, 18, 21-31, 35, 36, 41-53, 55-60, 62, and 63 remain pending in the present application, including independent claims 1, 29, and 47. The Final Office Action maintained the rejections found in the previous Office Action of March 25, 2008. Applicants reiterate that independent claims 1, 29, and 47 are patentable over WO 93/02610 in view of EP 1,212,974 as explained in the amendment of June 25, 2008, and address the Examiner's comments on pages 6-10 (paragraph numbers 6-9) in the Final Office Action in the following remarks:

#### **Paragraph Number 7**

The Final Office Action states that the combined teachings of WO '610 and EP '974 would have led the ordinary skilled artisan to supply the absorbent layers in WO '610 with abrasive layers on one side in order to provide the absorbent layers of WO '610 with more scrubbing and cleaning abilities. (Final Office Action, paragraph no. 7). Applicants respectfully disagree.

The Office Action recognizes that neither reference teaches such a configuration. Instead, the Office Action creates the statement above in an attempt to justify departing from the express teachings of the references. As stated in the previous response, WO '610 is directed to a disposable wash cloth comprising a first exposed absorbing layer, a second disinfectant layer, and a third layer. The second layer is hermetically enclosed between two attached plastic sheets. The third layer may also be hermetically enclosed between two attached plastic sheets. See *Abstract*. WO '610 differs from the claimed

invention because it does not teach an abrasive layer. More specifically, WO '610 fails to teach (1) a plurality of abrasive structures each comprising an abrasive layer and an absorbent layer (or a fibrous cellulosic web), (2) the abrasive structures being configured in an arrangement such that the abrasive layers, and (3) the absorbent layers alternate, as required by independent claim 1, 29, and 47 of the present application.

In order to overcome the deficiencies of WO '610, the Office Action attempts to combine the teachings of EP '974. However, EP '974 fails to cure the deficiencies of WO '610 with respect to the present claims. EP '974 discloses a number of arrangements of scrubbing substrates and cleaning substrates including the following:

1. only one cleaning substrate and only one scrubbing substrate packed in a layered fashion, preferably back to back
2. two or more cleaning substrates packed in a layered fashion, and only one scrubbing surface attached to one side of one of the cleaning substrates
3. two or more scrubbing substrates packed side by side such that both scrubbing substrates are in contact with a single cleaning substrate
4. two or more scrubbing substrates arranged one on top of the other in a layered fashion, only one of the scrubbing substrates in contact with the cleaning substrate

None of these arrangements teach or even suggest a plurality of abrasive structures comprising an abrasive layer and an absorbent layer in a stacked arrangement such that the abrasive layers and the absorbent layers alternate. Although the second and fourth embodiments teach a layered arrangement of the cleaning and scrubbing substrates, both arrangements teach that substrates of the same type (either both cleaning or both scrubbing) are layered directly next to one another. *See paragraph 25.* Thus, one of ordinary skill in the art would have been motivated to stack substrates of the same type (either both cleaning or both scrubbing) directly next to one another upon consideration of the teachings of EP '974. This result is in direct contrast with the baseless conclusion stated in the Final Office Action. Applicants respectfully submit, therefore, that independent claims 1, 29, and 47 are patentable over the cited references.

Additionally, the combination of the disclosures of WO '610 and EP '974 would not yield the present invention as required by independent claims 1, 29, and 47. For example, WO '610 discloses a stacked arrangement of a first absorbent layer, a second disinfectant layer, and a third layer, requiring a plastic sheet between the interface of these layers. Although the layers alternate with plastic sheets, the plastic sheets can neither be used as an abrasive layer nor as an absorbent layer. As discussed above, EP '974 discloses four arrangements of cleaning and scrubbing substrates. To combine the four embodiments of EP '974 with WO '610 would require each layer to be separated from the subsequent layer by a plastic sheet.

This combined design automatically precludes the first and third embodiments of EP '974 since they are not comprised of multiple layers of the cleaning or scrubbing substrate.

A combination of the teachings of WO '610 with the second embodiment described in EP '974 (having two or more cleaning substrates layered back to back and then attached to one scrubbing substrate) would require inserting a plastic sheet between each of the absorbent layers (the cleaning substrate), while leaving the lone scrubbing substrate attached to the outer cleaning substrate. Thus, while the plastic sheet (which is not useful as an abrasive layer) of WO '610 alternates with the absorbent cleaning substrate of EP '974, this combination would not lead to a substrate having alternating abrasive and absorbent layers, such as required by the independent claims. Additionally, this combination does not lead to a plurality of scrubbing layers on the product, as required by the independent claims.

Likewise, a combination of the fourth embodiment of EP '974 (one cleaning substrate attached to two or more scrubbing substrates that are layered on top of one another) with WO '610 would not lead to the structure of independent claims 1, 29, and 47. A combination of the teachings of WO '610 with this embodiment of EP '974 would result in the insertion of a plastic sheet between each of the scrubbing layers, while leaving the lone cleaning substrate (absorbent layer) attached to one side of the substrate. Thus, while the plastic sheet (which is not useful as an absorbent layer) of WO '610 alternates with the scrubbing substrate of EP '974, this combination would not lead to a substrate

having alternating abrasive and absorbent layers, such as required by the independent claims. Additionally, this combination does not lead to a plurality of absorbent layers on the product, as required by independent claims 1, 29, and 47.

Applicants respectfully assert that combining EP '974 with WO '610 simply does not teach, nor would lead one of ordinary skill in the art, to a structure with alternating layers comprising an abrasive and absorbent layer as defined in the independent claims of the present application.

**Paragraph Number 8**

The Office Action simply states that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. While true, the Office Action completely ignore that no suggestion or motivation exists to combine the teachings and suggestions of WO '610 and EP '974 as advanced by the Examiner.

Each of the layers disclosed in WO '610 fulfills a different cleaning purpose, necessitating the plastic sheets to separate the three layers and maintain sterility of each individual layer. According to the disclosure of WO '610, a layer of the disposable wash cloth is used for a specific cleaning purpose and then removed from the wash cloth and discarded before the subsequent layer is used for a different cleaning purpose. The dishwashing wipe disclosed in EP '974 comprises layers of scrubbing and cleaning substrates; however, these layers are attached without any sort of sterility barriers. Furthermore, the different cleaning layers of EP '974 are not releasably attached. As such, the

general structure of the dishwashing wipe of EP '974 indicates that there is no need for the different cleaning layers to be used apart from each other. While WO '610 requires strict sterility between the cleaning layers, EP '974 fails to even suggest the usefulness of maintaining sterility or isolation between layers. In addition, none of the references cited in the Office Action discloses or suggests a plurality of abrasive structures comprising an abrasive layer and an absorbent layer, arranging abrasive structures such that the abrasive layers and the absorbent layers alternate. Thus, only the Applicants' disclosure suggests any motivation or incentive to create a scrubbing product comprising alternating abrasive and absorbent layers. The Office Action has clearly used hindsight analysis in rejecting the presently pending claims.

**Paragraph Number 9**

In maintaining the rejection of independent claim 29, the Final Office Action states that "the instant claims do not recite how the material is used." However, independent claim 29 is expressly directed to a scrubbing product having a plurality of scrubbing layers wrapped around the substrate with each of the scrubbing layers comprising an abrasive structure including an abrasive layer adhered to a fibrous cellulosic web. The preamble limitation is limiting on the claim.

When the preamble recites a limitation in the context of the entire claim, it should be read as if in the balance of the claim. Any terminology in the preamble that limits the structure of the claimed invention must be treated as a claim limitation. In considering whether a preamble limits a claim, the preamble is

analyzed to ascertain whether it states a necessary and defining aspect of the invention, or is simply an introduction to the general field of the claim. The preamble serves to focus the reader on the invention that is being claimed. See, e.g., *On Demand Machine Corp. v. Ingram Industries, Inc.*, 442 F.3d 1331, 1344 (Fed.Cir. 2006) (We conclude that the preamble in this case necessarily limits the claims, in that it states the framework of the invention); *Kropa v. Robie*, 38 C.C.P.A. 858, 187 F.2d 150, 152 (1951) (the court aptly described the inquiry as whether the preamble is “necessary to give life, meaning and vitality to the claims or counts.”); *Poly-America, L.P. v. GSE Lining Tech., Inc.*, 383 F.3d 1303, 1309-10 (Fed.Cir. 2004) (the specification described the “blown-film” as a fundamental characteristic of the invention, and its use in the preamble limited the claims); *General Elec. Co. v. Nintendo Co., Ltd.*, 179 F.3d 1350, 1361-62 (Fed.Cir.1999) (where the specification made clear that the invention was a mode of display of binary data on a raster scanned display device rather than all display devices, the preamble language “displaying a pattern on a raster scanned display device by mapping bits” was a claim limitation).

In this case, the phrase “scrubbing product” acts as a limitation when read in the context of independent claim 29. Moreover, upon review of the entirety of the present application, it is evident that such a scrubbing product is what the present inventors actually invented and intended to encompass in the present claims. Thus, for at least these reasons, Applicants respectfully submit that the present claims patentably define over the cited references.

The Office Action apparently confuses (1) a plurality of tissue webs wrapped around a core and (2) a single scrubbing product have multiple layers. In contrast to a roll of paper towels, for example, the scrubbing product of claim 29 is utilized as a whole – as a single product for cleaning. Then, when the outside layer of the scrubbing product is soiled, it can be sequentially removed from the scrubbing product thereby exposing an unused scrubbing layer lying below the removed layer. As such, the claimed scrubbing product is not equivalent to the known rolls of paper towels, etc.

For at least the reasons above, Applicants submit that the claims of the present application patentably define over the prior art. As such, Applicants respectfully request the withdrawal of the § 103(a) rejections of independent claims 1, 29, and 47 and all claims dependent thereupon.

Applicants respectfully request reconsideration and allowance in view of the above. Should Examiner Cole have any further questions or concerns, she is invited and encouraged to contact the undersigned at her convenience.

Please charge any additional fees or deficiencies to Deposit Account Number 04-1403.

Respectfully submitted,  
DORITY & MANNING, P.A.

Date: 12/10/08



Alan R. Marshall, Reg. No. 56,405

DORITY & MANNING, P.A.  
P.O. Box 1449  
Greenville, SC 29602-1449  
Phone: (864) 271-1592  
Facsimile: (864) 271-7342